Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:52 AM
To: Rosengarten, Clark
Subject: FW: OAG docket # 121

Attachments: SORNA.doc

SORNA.doc (36 KB)

-----Original Message-----
From: Gary Hook [redacted]
Sent: Tuesday, July 31, 2007 5:15 PM
To: GetSMART
Subject: Re: OAG docket # 121

To: Laura Rogers

See attached letter regarding comments on proposal to implement SORNA.

Gary Hook
[redacted]

July 31, 2007

Laura L. Rogers, Director
SMART Office-Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to
Interpret and Implement the
Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), I would like to express my general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and my particular concerns with the current Proposed Guidelines.

Application of the Guidelines to Youth is contrary to current research, including research sponsored by the U.S. Department of Justice, which does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior. In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior-even when assaultive-do not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

It cannot too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment. It would make more sense to ensure that appropriate treatment was available regardless of where the child or juvenile lives.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender. This clearly is counter intuitive to promoting community safety.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out. The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess, destroying the social networks necessary for rehabilitation. Clearly this is not in the best interest of community safety.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

I support efforts to hold offenders accountable, protect vulnerable populations, promote victim's rights and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, I believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the

short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above. Research has shown that over supervision of lower risk abusers only makes the situation worse not better. We become part of the problem not part of the solution.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Gary Hook
[redacted]

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:01 AM
Rosengarten, Clark
ect: FW: OAG Docket No. 121 Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification ACT (SORNA) regarding juveniles

-----Original Message-----
From: Richard B. Krueger, M.D. [redacted]
Sent: Monday, July 30, 2007 4:28 PM
To: GetSMART
Cc: Alisa Klein; Meg Kaplan; Richard Krueger
Subject: Re: OAG Docket No. 121 Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification ACT (SORNA) regarding juveniles

Dear Ms. Rogers:

As the United States Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA) we would like to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current proposed guidelines.

We have worked with juvenile offenders for over 20 and 15 years, respectively, conducting research, evaluations, and treatment.

Research does not support the application of SORNA to youth. The recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%) and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event.

Application of the guidelines to youth will interfere with effective treatment and rehabilitation, as it removes confidentiality and a rehabilitative emphasis.

Youth implicated by this act have not been convicted of a criminal offense. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment.

The guidelines should allow for judicial discretion in cases of youth adjudicated as juveniles.

If the Attorney General insists that SORNA be applied to youth adjudicated within the juvenile court system, the department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

The guidelines should waive public registration and community notification requirements for youth adjudicated within the juvenile court system.

Alternatively, the guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma, and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

We support efforts to hold offenders accountable, protect vulnerable populations, and improve the overall public safety for communities access the nation.

However, we believe that the guidelines as currently written negatively impact the short- long-term rehabilitation of youth adjudicated within the juvenile court system. We the Attorney General to limit the application of these guidelines to juveniles, as set forth above.

Thank you.

Sincerely,

Meg S. Kaplan, Ph.D.

Director

Associate Clinical Professor of Psychology in Psychiatry Columbia University, Department of Psychiatry College of Physicians and Surgeons

[redacted]

Richard B. Krueger, M.D.

Medical Director
Sexual Behavior Clinic
New York State Psychiatric Institute
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1051 Riverside Drive, Unit #45
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Associate Clinical Professor of Psychiatry Columbia University, Department of Psychiatry
College of Physicians and Surgeons

Associate Attending Psychiatrist
Department of Psychiatry
New York-Presbyterian Hospital

[redacted]

E DO NOT EVEN IN THE LEAST KNOW THE FINAL CAUSE OF SEXUALITY. THE WHOLE SUBJECT IS IDDEN IN DARKNESS--CHARLES DARWIN 1862.

Thank you for your cooperation.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:53 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121 - SORNA Comments
Attachments: SORNA comments.doc

From: Deaett, Mary [mailto:Mary.Deaett@state.vt.us]
Sent: Thursday, July 26, 2007 7:38 AM
To: GetSMART
Subject: OAG Docket No. 121 - SORNA Comments

Comments also send by First Class Mail.

Robert Sheil, Esq.
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Bob.Sheil@state.vt.us

July 26, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

My name is Robert Sheil and I am the supervising attorney in the Vermont Office of the Juvenile Defender. Our office would like to take this opportunity to comment on the Proposed Guidelines that the U.S. Department of Justice is considering with regard to how best interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA). Our office, for the policy reasons set forth below, is opposed in general to the application of SORNA to youth who are under the jurisdiction of the juvenile court system. We are also particularly concerned with certain aspects of the Proposed Guidelines as noted below.

The Vermont Office of the Juvenile Defender is an office within the Office of the Defender General. The Office of the Defender General is the entity in Vermont that provides public defender representation. The Office of the Juvenile Defender provides ongoing post-dispositional legal representation to children and youth who were the subject of petitions filed in juvenile court alleging that they were delinquent, abused, neglected, abandoned, or unmanageable and who were placed in the custody of the Commissioner of the Department for Families and Children as a result of those proceedings. Our office also provides representation to children who are placed in Vermont's sole detention center, provides training to Guardians ad Litem, and offers testimony before the Legislature on proposed legislation relating to juvenile justice and child welfare issues. I, personally, sit on a number of standing committees that address juvenile justice issues.

Research , Including that Sponsored by the U. S. Department of Justice, Indicates that Inclusion of Youth in the Application of the Proposed Guidelines is Contrary to the Basic Tenets of the American Juvenile Justice System

The application of SORNA to youth is contraindicated by a large body of research, including research sponsored by the U.S. Department of Justice.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact over 90% of youth arrested for a sex offense are never rearrested for another

sex offense, even though the youth may be arrested for other non-sex offenses typically related to juvenile delinquency.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

For these reasons it is not good public policy to include in public sex offender registries for periods of 25 years to life youth adjudicated in juvenile court.

The Effective Treatment and Rehabilitation of Youth will be Compromised by the Application of the Proposed Guidelines to Them

The application of SORNA to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It is imperative to keep in mind that youth implicated by the Act have not been convicted of any criminal offense. States' legislatures and prosecuting authorities have affirmatively acted to distinguish juveniles committing delinquent acts from adults committing criminal acts. These children have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior without being subjected to both the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification, adjudication and proper treatment of youth who exhibit inappropriate sexual behavior. Parents, rather than recognizing the value to their child of holding him or her accountable, will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the treatment and rehabilitation of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess[4] destroying the social networks necessary for rehabilitation.[5]

The Guidelines, if Applied to Youth, Will Place Youth in Harm's Way and Pose a Much Greater Risk of Exploitation

If SORNA is applied to youth it will expose those youth to adult predators who are untreated or have not been rehabilitated by treatment. This is in direct conflict with the Act's

public safety objective of "protect[ing] the public from sex offenders and offenders against children."

Pedophiles and other adult sex offenders, who exploit and abuse youth will be much more likely than the general public, to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

At a Bare Minimum the Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists in his belief that SORNA be applied to youth adjudicated solely within the juvenile court system, the Department should allow judges to exercise discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has taken or retained jurisdiction argues against mandated and indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

Those states that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Public Registration and Community Notification Requirements Should not be Required for Youth Adjudicated within the Juvenile Court System

In the event that the Attorney General continues to insist that youth adjudicated within the juvenile court system be required to register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry. Access to such a registry by the relevant authorities but not by the general public would be sufficient to protect the public safety and victims. This type of registry would allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA if applied to delinquent youth will disrupt families and communities across the nation because SORNA stigmatizes not only the youth, but the youth's entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth will be required to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth will be required to provide will be the registration information for any vehicle owned by one or both of the youth's parents.

For like reasons the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

It is essential that the federal government must be vigilant in its efforts not to promulgate public policy that unnecessarily creates or exacerbates tensions within the family home. This is critical in supporting families and their importance in creating strong communities. It is counterproductive to formulate public policy that foments tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

When the Vermont Legislature discussed and debated proposed legislation in 1996 that eventually established a sex offender registry in Vermont there was a decision made by the legislature to exclude from required registration those youth who were adjudicated delinquent of a sexual offense in juvenile court as opposed to convicted in adult (criminal) court. However, any individual, including all children, against whom an allegation of sexual abuse has been substantiated after investigation have their names placed on a child abuse registry even if a delinquency is not filed in juvenile court or a criminal charge is not filed in adult court.

This registry is accessible to prosecutors, the attorney general, certain department commissioners and to employers if such information is used to determine whether to hire or retain a specific individual providing care, custody, treatment, or supervision of children or vulnerable adults. The employer may submit a request concerning a current employee, volunteer, or contractor or an individual to whom the employer has given a conditional offer of a contract,

volunteer position, or employment. The request shall be accompanied by a release signed by the current or prospective employee, volunteer, or contractor.

In addition, there are another two separate statutory provisions in Vermont law that specifically provide notice regarding delinquent youth who have been adjudicated for any delinquent act that involved any sort of sexual abuse, and these, provide protection for the public. Under 33 V.S.A. §5529g(4) a victim of a sexual offense may request to be notified by the agency having custody of the delinquent child before he or she is discharged from a secure or staff-secured residential facility.

There is also an exception to the confidentiality of juvenile court records, found in 33 V.S.A.§ 5536(b) and (c) which mandates the family (juvenile) court to provide written notice within seven days of a delinquency adjudication involving sexual abuse as well as certain other listed crimes, to the superintendent of schools for the public school in which the child is enrolled or, in the event the child is enrolled in an independent school, the school's headmaster. This notice is required to contain a description of the delinquent act found by the court. 33 V.S.A. § 5536a(d).

Both of these statutory schemes provide the type of public safety protections that are the focus of SORNA and comply with the essence of the act.

States that create and maintain child abuse registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

The Vermont Office of the Juvenile Defender has always supported and will continue to support efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for all communities and their citizens. However, for all of the reasons stated above, we believe that the Proposed Guidelines that have, at present, been promulgated by the Attorney General fail to take into account the inherent differences between adolescents and adults and fail to recognize the growing body of knowledge regarding recent discoveries in the area of adolescent brain development. The Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways discussed above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration. May we thank you in advance for your kind consideration and attention to this matter.

Respectfully,

Robert Sheil, Esq.

Vermont Juvenile Defender

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; a*vailable at http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. *Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem.* American Probation and Parole Association. http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles.* 91 California Law Review 163.

5 Ibid

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rogers, Laura

From: DCox@ESD.WA.GOV
Sent: Thursday, May 31, 2007 7:58 PM
To: GetSMART
Subject: My Opinion
Attachments: Fw When Worlds Collide.htm

It is my opinion that all of these Sex Offender laws are lumping all sex offenders into one group which is pure asininel There are different degrees of offense from first time offense to repeat offenders and the punishment should NOT be the same for first time offenders. Just take a look at the attachment to see what happened to one man that created a law that came back to haunt him. Shows that anger and good common sense do not have a thing in common. Don't label all sex offenders because I personally know people that have never, ever repeated their crime and have turned their lives over to our Lord and Savior. Be very, very careful how you ruin lives with your anger and ignorance.

Diane Cox
[redacted]

----- Original Message -----
From: Buffy
Sent: Wednesday, May 30, 2007 7:39 PM
Subject: When Worlds Collide

When Worlds Collide

http://www.americanchronicle.com/articles/viewArticle.asp?articleID=28315

Amanda Rogers
May 30, 2007

Cofucius once said, "Before you embark on a journey of revenge, dig two graves."
On February 24, 2005, 9 year old Jessica Lunsford went missing from her Florida home which she shared with her father, Mark and her grandparents. She was later found murdered, her body wrapped in garbage bags, hastily buried just a few yards from her own home. Her killer, John Evander Couey, was convicted earlier this year for the rape and murder of Jessica and has been sentenced to death. Mr. Couey was a registered sex offender with a 23 year long criminal history for a variety of offenses, from DUI, to burglary, unlawful sexual contact with a minor, and just about everything in between. He was a homeless, jobless, drug abusing wanderer with absolutely nothing left to lose. He had asked for help long before killing Jessica, but he never got it.

After his daughter's death, Mark Lunsford took to the streets demanding harsher sentences and punishments for registered sex offenders, stating "I can't get my hands on the guy that murdered my daughter so I've made it my job to make the rest of these sexual offenders and predators' lives miserable, as miserable as I can."

He quickly established the Jessica Marie Lunsford Foundation, collecting contributions to facilitate his lobbying efforts all across the country. As of this writing 30 states have now passed some version of "Jessica's Law", a law named in her memory.

Unfortunately, Mr. Lunsford was so blinded by his anger and rage that he may have inadvertently bit off his nose despite his face as his very own son now stands to suffer the wrath of the litany of ill thought out, punitive, and vengeful laws. Laws which, for the Lunsford family have now come full circle.

On May 18, 2007 Joshua D. Lunsford age 18, son of Mark Lunsford and brother of Jessica Lunsford, was arrested in Clark County Ohio on a felony charge of unlawful sexual conduct with a minor. He has been released on $5,000.00 bond. The charge stems from an incident involving his girlfriend who is 14. The legal age of consent in Ohio is 16.

Court documents reveal what countless others across the nation do, that Joshua and his girlfriend are nothing more than a modern day Romeo and Juliett. Joshua did not force himself upon this young girl, she consented (albeit illegally). It is apparent that, for whatever reason, the young girl's parents did not approve of Joshua. They warned him on numerous occasions to stay away from their daughter and had threatened that if he continued to come around they would press charges because their daughter was in fact a minor.

If convicted of the felony charge, Joshua Lunsford will not only face many years in prison, but also life as a registered sex offender. He will bear the same label as John Couey, the monster that murdered his little sister Jessica. He will also have to bear the burden and consequences of the sex offender legislation that his own father, Mark Lunsford has fought so very hard for. The road to hell is paved with good intentions. This has to be a wake up call of extreme magnitude for Mark Lunsford and my heart goes out to him. He must know that his son's life is forever ruined because he will be forced to pay the "collective" price for everyone's sex crimes, including

John Couey's, instead of simply his own. Perhaps while Mr. Lunsford still has the spotlight he can draw attention to this grave disparity in sex offender laws and punishment. While it may be too late to save little Jessica, he might still have a chance at saving his son. It would certainly be a step in the right direction and one that is long overdue.

While I don't condone or advocate teen sex, I do consider myself a realist. I have a 14 year old daughter too and can tell you first hand that teens do in fact have a sex drive and some of them do and will have sex regardless of whether or not it is legal, against their parents wishes, or what is in their best interests. This is nothing new or deviant.

Teens have been having sex since time began and in the not too distant past it would be considered more abnormal than not if a young woman reached her 18th birthday and was not married.

It is hard to believe that here in the 21st century we are still resorting to "shaming" and "collective" forms of punishment which is what registering as a sex offender is really all about, and incarcerating people for consensual activity. Lumping people together under one stereotypical label which more often than not doesn't even begin to reflect the "crime" for which one was actually guilty of is a crime in and of itself..

If convicted, Joshua will join a growing number of thousands of young men and women across the nation that bear the child molester label (i.e. Registered Sex Offender). He will have to abide by residency restrictions, and registration requirements, and may even be forced into homelessness, joblessness, and hopelessness. Why? How will doing that to him, like we have so many others before him, make our world a better or safer place? It is high time we, as Americans, pull our heads out of the sand and say enough! Don't wait until it happens to your child. Think it can't? I'll bet Mark Lunsford used to think the same thing up until a few weeks ago.

Amanda Rogers
5/29/2007

Rogers, Laura 4 wks

From: [redacted]
Sent: Thursday, July 05, 2007 4:13 PM
To: GetSMART
Subject: DocketNoOAG121

I have a concern regarding the provisions of the SORNA.

The section that deals with the "tiers" of sex offenders.
All a victim has to do is say I was forced, doesn't matter if it was true or not. That puts the offender in a "tier" III. That is registration for life. It would seem to me that a better determination, such as a psychological profile, would help to better put a person in the correct "tier". The very broad classifications are most unfair. What would happen if a sex offender, convicted of CSC 3rd degree - force, received HYTA. In our state that is Holmes Youthful Trainee Act. There is no conviction and the records are sealed. However, they still must register. Other similar cases in other states do not have to register nor do they if they received HYTA after 2004 in our state. The state should determine the length of time a person should register.

Thank you very much.

Rogers, Laura

From: Kaplan, April
nt: Friday, July 13, 2007 8:52 PM
Rogers, Laura
Subject: Fw: SORNA guidelines

SORNA comment

----- Original Message -----
From: Mary_Schuman@utp.uscourts.gov <Mary_Schuman@utp.uscourts.gov>
To: Kaplan, April
Sent: Fri Jul 13 16:08:44 2007
Subject: SORNA guidelines

I suggest the first line in which talks about TIER classification being based on "substance" and not form or terminology, be reworded so it is more clear that we are basing the tiers on conduct of the offense and not what the count of conviction may ultimately have been.

Rogers, Laura

From: [redacted]
Sent: Tuesday, June 12, 2007 3:59 PM
To: GetSMART
Subject: OAG Docket No121

I am writting to you today to express my concern that under the new SORNA you did not make it manditory that each state set up some type of Tier system to classify sex offenders. The failer to do so will lead to the watering down of the usefulness of the law. If a state includes all sex offenders under one classification system, the public has no idea of who on the SOR they should realy worry about. States such as Michigan have over 40,000 S.O.s on the SOR and it is like trying to find waldo on the old game of were in the world is waldo. Futhermore if you are truly interested in protecting the public you would require that this tier system be based on empirically determained risk to re -offend. Using a scientifically based risk assessments to determaine whether and individual should be placed on the registry and at what tier level. The way you have set it up now valuable law enforcement resources will be used to check on ex offenders who are of no danger to the pubic.

Rogers, Laura

From: [redacted]
Sent: Tuesday, June 19, 2007 3:54 PM
To: GetSMART
Subject: OAG Docket No 121

The following should be added to the SNORA. A way for a tier II to be reevaluated from a tier II to a Tier 1. If truly we are interested in protecting the public from these sex offenders then no good is shown by keeping a person at a higher Tier level then they really are. If you do that you are opening up for the courts to look at this as additional punishment and not a safety measure as the court ruling Smith V. Doe (01-729) 538 US 84 (2003) says it is set up to be.

Rogers, Laura

From: [redacted]
Sent: Wednesday, June 20, 2007 12:56 PM
To: GetSMART
Subject: OAG Docket No 121

I would like to see the following added to the law. Each state will within three (3) years of enactment of the SONRA be required to set up a tier system of placing sex offenders level of danger to the public on the public web sight. This system will include but not be limited to the following, a empirically based risk factors to show who the high risk offenders are. Tier 1 offenders will be of the least risk and the information on them will not be on the public sex offender registry. Tier 2 will be moderate risk and the states may determine if they are to be included on the public registry. Tier 3 offenders will be high risk offenders and in keeping with the reasoning for having a Sex Offender Registry, the information on this tier level offender will be mandatory on the public sex offender registry and the SONRA.

The reasoning here is that if we are looking to get those high risk offenders on the National Registry as the United States Supreme Court declared that the registry was never intended to be used as a punishment for low - risk offenders. (Smith V. Doe (01-729) 538 U.S. 84 (2003). Then removing those of low risk will be in line with what the court was saying. Furthermore if we put all levels of offenders on the registry, it will water down the usefulness of the registry in the publics mind. It will also make it harder for the public to pick out a sex offender if they live in an area that has a lot of sex offenders in it. By just having the high risk offenders on the registry that will help limit the number of faces and locations offenders live, the public will have to recall.

Rogers, Laura

From: [redacted]
Sent: Friday, June 22, 2007 9:26 AM
To: GetSMART
Subject: OAG Docket No121

V classifications of Sex Offenders.

(Small print is copyed from the OAG Docket;) For example, tier I includes a sex offender whose registration offense is not punishable by imprisonment for more than one year, a sex offender whose registration offense is the receipt or possession of child pornography, and a sex offender whoes registration offense is a sexual assault against an adult that involves sexual contact but not a completed or attempted sexual act.

Problem: If you read the above as you have written it a Tier 1 offender would include a person who is in possession of child pornography. And yet a person who is convicted of physical contact by touching trough the clothing of an adult will not be able to be classified as a Tier 1 under the SONRA as written. The reason, in some states the crime although a misdemeaner, it is punishable by more than one year in jail.

Recommendations: Adopt a tiered approach to identify **high risk** offenders founded on empirically based risk factors. This would show that the SNORA is not trying to punitive. It would also set up a system that would identify the high risk offenders, and is that not what you really want to do. Certainly you are not trying to set up a registry that has a lot of people on it just to set up a large data base.

At a minimum the way to correct this is to change the wording from any crime that is less than one year in Jail is a Tier 1; to any crime that is classified as a misdemeanor is a tier one crime.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:44 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No 121

From: Tim Poxson [redacted]
Sent: Wednesday, July 25, 2007 1:05 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

The SORNA as written did not include any way for a person who is in a higher tier level (II) or (III) to be assessed to a lower level. Placement on the SORNA is offense based even when a tier approach is used by a state. It is not based on te facts of the case or an emmpirically determainded risk to re-offend. Even if the sex offender has participated in, and successfully completed, sex offender treatment programs. Some sex offenders have also undergone risk assessments and determained to be low or no risk for re-offending, but will still be required to abide by the SORNA rules of placement on a tier level based on SORNA. Many states have been using scientifically based risk assessment to determine whether an individual should be place on the states registry or at what risk level. The SORNA will undo this, and force each state to use an out dated system that does not prove what risk a sex offender is. Some tier I (crime based) sex offenders may be more of a risk than some tier III (crime based) sex offenders. If the goal of the SORNA (ADAM WALSH ACT) is to protect the public from known sex offenders, all efforts should be made to identify which ones are the most risk to re-offend.

Rogers, Laura

From: [redacted]
Sent: Thursday, June 28, 2007 1:58 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

Under the SORNA as your office has written it, the same law broken, will be a Tier1 in one state while being a Tier 2 in another state. I understand that the Tier system is not mandatory in any state however under the SORNA you are trying to standardize the sex offender registry. One way to do that would be to make any misdemeanor conviction a tier 1. As stated above if you go with the wording as you have it now, the SORNA will be inconsistent. In that in some States a misdemeanor is any crime you can get less than one year in jail for. In other states a misdemeanor includes any crime so set by the state as a misdemeanor that is punishable by two years or less in prison.

Another way this issue could be cleared up would be to go to a tiered approach to identify HIGH-RISK offenders founded on empirically based risk factors. This would go to the real meaning of the SORNA and protect the citizens form high-risk offenders. This would also let law enforcement use its resources to track the high-risk predators, instead of using law enforcements precious resources tracking low-risk offenders. This would go to the hart of the Alaska V J.Doe case, in that as ruled the sex offender registries were not intended to be punitive to low risk offenders.

Rogers, Laura

From: [redacted]
Sent: Friday, June 29, 2007 1:58 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

Sec III (2)-(4) Classifications of sex offenders. The SORNA does not require that state set up classifications of sex offenders. The SORNA should require states to set up a tiered system of classifications of sex offenders. This should be done using testing that is available and will show what danger the offender is to the public. This would assist the public and the police as to who they should be watching out for. The Tier system should be a three level system with the following. Tier I offenders being the least likely re-offend. Offenders in this tier level should not be posted on the public sex offender registry or the SORNA. Tier II would be those who tested to be of some risk to re-offend and the availability of offender information on the internet should be limited to the name, photo, location were the offender lives and all sex crimes the offender has been convicted of, and the dates of those convictions. Tier III should include those that are the most likely to re-offend and information about this tier level offender would not be limited as to what was posted on the internet about this offender. This would fill the purpose of the sex offender registry and keep the public informed of those who are a danger and the most likely to re-offend.

The Tier level should include a system that would let those in Tier II and in tier III to request retesting at the cost of the offender to be reevaluated for a tier of lower danger level to the public. Furthermore a petition process for removal form state and federal registries if they are tested and found to be of no chance of re-offending at all should be available to anyone on any tier level. No public good is done by keeping people on the registry that are of no threat to the public. And to further stigmatize and isolate low - risk or rehabilitated people, exposing them to harassment , and depriving them of the normal opportunities for education, employment, and housing. Furthermore by keeping them on registries we are wasting Law Enforcement resources tracking and monitoring these low risk or no risk offenders. Our best use of precious Law Enforcement resources would be to monitor high-risk predators. The use of a system like I am suggesting would also be more in line with the supreme courts ruling Smith V Alaska. It would also show that this Attorney General is not trying to be punitive in the rules he is issuing, but is trying to be prudent and fair.

Rogers, Laura

From: [redacted]
Sent: Monday, July 09, 2007 2:35 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

SEC.III (2) - (4) Classification of Sex Offenders. The SO Classification does not require states to classify sex offenders on a Tier System it does however lay out what it does want sex offenders classified as to how long they will have to stay on a sex offender registry. Tier I 15 years or 10 if no crimes committed Tier II 25 years on a sex offender registry with no possibility of being reclassified to a Tier I offender. Tier III life time registry required with no availability of ever being lowered to another lower tier level. And states may be harder on sex offenders because this is just the floor and their is no ceiling as to how hard or placing more restrictions on sex offenders than the floor that is required in the SONRA. IE if a person would normally fall in a Tier I status the state may instead place them in a Tier II or Tier III status because this would meet the requirement of the floor set by the SONRA of 15 years or more of registration in a Tier I.

Furthermore if one reads what the SORNA recommends a Tier I as stated in the SONRA; child pornography possession of would under the guide lines of the SONRA allow the states to place this type of conviction in a Tier I. And yet if one reads on an adult who touches another adult though clothing the victim has on; with or without force in many states is a classification of a Tier II under the SONRA as written, as in many states this is a misdemeanor that will get a person more than one year in jail. I find it very troubling that this is written this way. The SONRA should have realized that when setting up the floor for placing people on Tier levels, the best way to accomplish this would have been adopt a tiered approach to identify 'high-risk' offenders founded on empirically based risk factors. The system the SONRA is recommending will confuse the public and will identify so many low risk offenders, the public will not find that this is of any use at all. Also law enforcement will be forced to use precious resources tracking low-risk offenders rather than monitoring **high-risk predators.** The SONRA is setting up a sex offender registry that will at a minimum have over 600,000 names on it and the number of names on it is a number well top way past that point with no end in sight. So what the SONRA is asking the public to do is pick out those on the sex offender on the registry that are of the most danger to the public, without any mandatory guide lines from empirically based risk factors. So what is being asked of the public is to pick out from over 600,000 names and photos the very small number that are a real danger to them. This is like the old game of Were in the World is Waldo. In that game it was almost imposable to find waldo among a little over 1,000 photos that were alike. Given the boundary's the U.S. Attorney Generals office has set up, one has to question is the A.G. just trying to be harder on sex offenders than the next guy or is he really trying to protect the public? I will not attempt to answer that one because one only has to read the rules as written to see what the real motive is. The SNORA as written does not let a sex offender petition for a new threat level or tier level, nor does it allow for a reasoned, circumspect petition process for removal form state and federal registries. No public good is done by keeping people on the registry that are no risk or low risk to the public. The only purpose for keeping them on the registry is so that they can be continually stigmatized, isolated, harassed and depriving them of the normal opportunities for education, employment, and housing.

Rogers, Laura

From: [redacted]
Sent: Wednesday, July 11, 2007 12:01 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

The SNORA as written does not require states to set up a Tier system of any type, does require the states to follow the general guide lines of what the SNORA has determined crimes committed would then fall into a general guide line of a Tier system.

Tier I duration of required time on the SNORA is 15 years. With some possibility of being removed after (10) ten years if conditions are met. This is a very good crime prevention measure that will put the work on the sex offender not to re-offend and if they stay crime free they can be removed from the registry sooner. This is good for the public, in that the offender who reaches this goal has not committed another crime and has not cost the tax payer anymore money.

Tier II Duration of required time on the SNORA is 25 years. This level has no crime prevention measures in it. And furthermore a Tier II has no way to became a Tier I even if they do not do any more crimes. Also as by way of example the SNORA lets a sex offender who has been caught and convicted for having child pornography be classified as a Tier I offender. And yet Tier II offenders will include those who are convicted of a misdemeanor that is punishable by more than one year in jail. Many states including Michigan have misdemeanors that are punishable by more than one year in jail. CSC 4th the touching of a person by another even if the touching is done though clothing; in Michigan this is is a misdemeanor punishable by up to two years in jail. So what I am trying to say is that the SNORA is very inconsistent in how the Tier levels are arrived at.

Tier III Duration of required time on the SNORA is lifetime. This one offers no chance to have your tier level changed. This tier level has no crime prevention tools in it at all. This one will cause many sex offenders to have no hope at all, and they will decide to keep offending. In that they will have little chance of getting any employment with this classification they will re-offend. This will not be good for the victim, the public or the government. Far thinking would have you understand that by offering this group no hope at all you are setting them up to repeat crime. If you were to give this group hope as I am suggesting below, you will probably save more children and adults from being the victim of a crime.

I am suggesting that all Tier level offenders should have an opportunity to be re evaluated to a lower tier level. This should be done so that the sex offenders will have a goal to work toward, that they know if they fail not only will they have to spend time in jail, but their status of a sex offender will remain on the SNORA for a longer time frame. With what I am suggesting the SNORA will reach its goal of having those that are the most high risk predators on it. At the same time it will let law enforcement use the precious resources tracking and monitoring high risk offenders and not wasting those resources on low risk offenders.

The above can be done in a number of ways but the best would be to use a testing system that identifies individuals based on empirically based risk factors. After which the offender is placed on the tier which best shows their risk factor.

This system would cut down on the numbers of sex offenders that would be on the SNORA, but after all

is said and done is not the idea of the SNORA to protect the public from those that are at the most risk to re-offend. No public good is served by keeping a lot of people on the SNORA that are low risk or rehabilitated people, and just being stigmatized, harassed, and depriving them of normal opportunities for education, employment, and housing.

Rogers, Laura recd

From: JERRY BEAL [redacted]
Sent: Wednesday, July 25, 2007 4:42 PM
To: GetSMART
Subject: You're making a big mistake!

I have studied for over 20 years, something that TRADITIONAL psychology hasn't been studying at all. I have made myself an expert on this subject.

Non violent sex offenders are being prosecuted with no "causation" proven in the trials... as a matter of fact! And it would be on thing if this only had to do with the supposed perpetrator... buy way worse is the robbing of young minds and young emotions of their own personal truth and power. You're doing just that in coming from the premise... "the event or events or the adult person in the event or events with a youth causes the mental and emotional anguish the youth is having."

It's not! It's coming from the youth's own IMPOSED definitions and meanings, in the form of a mind context, that turns 'what happened' to a judgment ABOUT what happened. An ancient noted Roman philosopher named Epictetus said clear back in the year, 101AD... "People's minds are not disturbed by events, but by their [own] judgments ON events." I say the same thing this way... "Conditions and events often affect bodies, but conditions and events never affect our mental or emotional state of mind. Only our own beliefs and interpretations ABOUT the conditions and events are giving us our feelings and our experiences and nothing else is."

What's really happening with all of this is that we're using our own beliefs and interpretations to gain our feelings, one way or the other, and then we're blaming a condition or event for what our own interpretations are causing. This is called, "trouble making" and you're right in the middle of all of this nonsense!

Listen here... I can prove to you, that non violent sexual activities, performed by anyone with any other one... where there is no bodily harm done, does not matter at all... because it can't matter at all. You're saying that "it" matters. "It" doesn't matter, because "it" can't matter. It's our own interpretations that SEEM to make it matter, but then we're ignoring our own interpretations completely, as having anything to do with our feelings and experiences, and then we're blaming the symbol, the condition, the activity for what our own interpretations are causing.

'Do-gooder people' like those that rush to the scene of a youth being sexual with an adult and cry foul... and way much more. How else then is the youth able to experience their own personal truth and power that PROVES... "I create or mis-create all of my feelings and all of my experiences and all of the time."

YOU ARE BEING FLAGRANTLY WRONG WITH ALL OF THIS!!!! And yet you're the "justice" system. Stop lying to these little ones, please! Stop blocking and start helping these young mind and young emotions... please!

You are really making a mess of things with these lies... "events cause feelings and experiences"... when they don't and can't. I have a written manuscript with 56 short chapters to it that explains much more about this horrible thought reversal problem that virtually everyone on earth is unconsciously conspired in. I also have a website at www.eventsdontcauseexperiences.ws

ps... **Here's proof you're making a terrible mistake!**... It's never what someone else did to you, that's bothering you now. And if the deed was done 10 years ago or 10 seconds ago, it's still the same thing. It's never what someone else did to you, that's bothering you now. Instead, its what you're doing to them, that's bothering you now. And what is it that you're doing to them, where you're thinking of it as some way they've victimized you? Right now, in your own mind, and at your own choosing, you giving them a role of perpetrator and you're giving yourself

a role of victim and then you're experiencing your feelings based on your own CHOSEN mind scenario, **and that's based in the false idea, that the event caused the experience.** Meanwhile you're leaving out entirely, your own interpretation, has having anything to do with your experience. How dishonest and irresponsible is that!? It's very dishonest and irresponsible.

Please... please... please reply to this email. I have tried over a hundred times to get traditional psychology to deal with this greatest social blunder, which is also traditional psychology's fundamental flaw. Please surprise me and reply to this! But way more... **please stop lying to young minds and young emotions.** Please stop robbing them of their own personal truth and power... please!!

Rogers, Laura recid

From: [redacted]
Sent: Sunday, July 08, 2007 9:10 AM
To: GetSMART
Subject: Feedback re: proposed SNORA

To whom it may concern,

I applaud your efforts to continue working towards the protection of children. However, I have many concerns about the proposed SNORA. First, I'd like to know what evidence you have suggesting that monitoring sex offenders and requiring registration is effective at reducing the number of sex offenses being committed. The USDoJ reported that 94% of sex crimes are being committed by people not on the sex offender registry. In my humble opinion, knowing this means to me that the government should be spending tax payers money not on developing means for monitoring those who've already been convicted but on preventing new sex crimes. Also, is it not a violation of Civil Rights to those who've been charged, convicted and done their time to change their sentence by forcing them to now give their DNA and change their registration requirements? What kinds of problems with identity theft will ensue if you make their Social Security numbers public? Also, what is the purpose of posting their criminal histories? The justice system in the United States is supposed to be based on rehabilitation. Where is the plan for treatment of sex offenders in SNORA?

One of the problems occurring as a result of the Sex Offender Registries is that communities in which a sex offender lives are in states of mass hysteria. They think that their neighbor now is hiding in the bushes waiting to attack and kill their child. Where is the plan for public education about the facts related to sex offenders (i.e., the 5.3% recidivism rate, the education to curb the myth of "stranger danger"; the fact that at least 90% of sex offenses against children are committed by family members, etc)?

I believe this proposal is going way too far and a complete waste of tax payer money and a violation of the Civil Rights of those who are registered sex offenders. I absoluetly do not support this at all.

Rogers, Laura

recidivism

From: [redacted]

Sent: Wednesday, May 30, 2007 8:55 PM

To: GetSMART

Cc: [redacted]

Subject: Docket No. OAG 121

My comments regarding the proposed registration:

I have spent 23 of my 30 years as a therapist practicing in the subspecialty field of sexual abuse.

I'm one of the founders, and past president of the Montana Sex Offender Treatment Association from cities (in 1987). Our recidivism rates have consistently been 2% and under for decades. (Less than 1% for low-risk sex offenders)

I'm also a specialist in the treatment of sexual abuse victims.

I think registration of TRUE PREDATORS is a good idea.

Though we all share protective and emotional reactions to children being sexually abused -- (almost all my and my colleagues' work is motivated by the purpose of preventing further victims) -- this idea of registering people is an example of a law based on fear, not facts.

Emotional reactivity creates very poor policy. This proposal represents an unfortunate example of such policy.

UNFORTUNATELY, the Adam Walsh act is crafted in a way that predator is defined by the age of the victim, which in my clinical experience, appears to be more closely related to win a sex offender was abused in some way -- often sexually. This has implications for registration.

The age of the victim is not correlated in the research to risk to reoffend, so I cannot support a law that will create more victims than it will prevent. Offenders will go underground.

Registration of low and moderate risk sex offenders create a force whose impact will be to INCREASE recidivism. This statement is based on lots of research that provides evidence that increasing isolation, and decreasing access to positive based support people, housing, and jobs, etc. will have the exact opposite effect that I trust you intend.

Research demonstrates that 93% of sex offenders **know their victims** and their families. **They don't molest strangers.**

I have yet to have anyone explain to me how registering a low or moderate risk sex offender has ever prevented a sex offense. What these rules actually do is reinforce untrue myths about the danger of sex offenders, **unnecessarily scaring the public.**

Putting their pictures ensures increased vigilante action -- not just towards them, but victimizing their children and relatives.

This is even worse idea for adolescents.

'andating evidence based evaluations that separate sex offenders by risk level, and then using the justice stem to create an external control towards breaking any remaining denial in the low and moderate risk sex offenders has been a very rewarding experience. It would also be a much more effective way to spend taxpayer money.

With good evaluations, the decision to register a person should be based on scientific evidence that supports the possibility of victim prevention. This would pretty much limit registration to the highest risk sex offenders, and since treatment can work with many of them, there should also be a mechanism that reflects the lowering of their risk IF they respond positively to treatment.

Accurate education about the Bureau of Justice statistics on sex offenders released and is there recidivism rates (which are very low) should also accompany any registry.

Rather than play on fear, how about educating the public about what incredibly positive and effective results come from a good partnership between probation and specialized treatment providers, who have combined the best of the chemical dependency, law enforcement (polygraph use), and mental health therapy fields, have accomplished?

Wouldn't that be something?

We could register true predators, treat the majority of sex offenders who are low and moderate risk that their own expense and the community, (instead of at taxpayer expense), and create a society consistent with the redemption and accountability values that I believe most people actually have -- all while saving money!

Andy Hudak LCPC
[redacted]

Rosengarten, Clark assesmt tools

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, July 23, 2007 1:01 PM
To: Rosengarten, Clark
Subject: FW: Docket No. OAG 121 (Submitted by Kelly Ward for Larry Michael Francis)
Attachments: Docket OAG 121.doc

From: Kelly Ward [redacted]
Sent: Sunday, July 22, 2007 3:15 PM
To: GetSMART
Cc: [redacted]
Subject: Docket No. OAG 121 (Submitted by Kelly Ward for Larry Michael Francis)

July 18, 2007

Docket No. OAG 121

Public Comment on Sex Offender Registration and Notification Act
aka: Adam Walsh Act's Sex Offender Registration and Notification
or SORNA, for short

Specifically these comments refer to the National Guidelines for Sex Offender Registration and Notification which were posted May 30, 2007, in the Federal Register. Comments must be received by August 1, 2007. The Adam Walsh Act was passed July 27, 2006, which gave the states a deadline of July 27, 2007, to implement the Walsh Act in order to maintain federal law enforcement funding. Some states, in a panic to keep in favor with the Washington politicians, have gone forward with their own interpretation of the Walsh legislation, guessing at what they believe could be the final government guidelines. Any guidelines which impinge on inalienable rights must, whether federal or state, also provide recourse and remedy, including due process for defense (for example when mitigating circumstances exist or when sex offenders have been restored through treatment and no longer pose a risk to society) and equal protection (to insure that a low risk or no significant risk offender is not categorized or stereotyped with high risk or violent offenders).

The Guidelines Must Be In Keeping With The Nature of The Act

Clearly, the nature of the Act, also conveyed by the common name of the Act, is to protect our children from sexual predators. Since there seems to be a mean-spirited segment of the government that wishes to see persons with sex offenses punished, shamed and banished as long as possible, and seeks to

find another way to cause further anguish to sex offenders' lives; then surely there must be substantial evidence that these guidelines will actually protect our children, and the evidence does not show that. Historically rather there is evidence that registration and notification provides a source of information for discrimination, stigmatism, and vigilante-based attacks against offenders, regardless of their risk factors, rehabilitation, recovery, restoration, or even the actual crime (sometimes just a failure to appear in court). Perhaps the worst problem with the guidelines is that the dangerous sex offenders are driven underground and farther away from preventative treatment.

Sex offenses are deviant behaviors, but just like most other crimes the deviant behavior is a learned behavior. Just like any other learned behavior, that behavior can be retrained, re-learned, and modified through treatment. Some sex offenders, such as true-incest offenders, only have a 5% recidivism risk in the first year after discovery, and for them the risk drops to 0% after the first year, even without treatment. The behavioral modification curve shows that the recovery and restoration process for a sex offender is like any other treatment process and that the offender is finally returned to a normal state. The Guidelines allow only for a continual registration, perhaps for a lifetime, that does not take restoration into account. There are even cases where a statutory offender is now married to his "victim-girlfriend" and should be able to live a normal life without interference by government. If the guidelines adhered to the nature of the Act, then there would be provisions within them to exclude certain offenders from the initial registration, and to remove offenders from the requirement once they have met treatment benchmarks of recovery.

There are tools available to forensic psychologists to assess risk to our children based on a clinical evaluation. The guidelines should consider these assessments over a strict determination made by mean-spirited governmental agencies or vigilante groups. Simply put, if a sex offender's behavior is controlled, then they are not a threat.

Respectfully Submitted,
Larry Michael Francis, Commentor

[redacted]

Rogers, Laura

From: [redacted]
Sent: Monday, June 25, 2007 1:50 PM
To: GetSMART; christine_leonard@judiciary-dem.senate.gov
Subject: OAG Docket No 121

In that the Adam Walsh act (SNORA) will become law within a few years in all states. And in that the U.S. A.G. is the official rule maker of how this law will be applied. Also in that the U. S. Dept. of Justice Bureau of Justice Statistics on Recidivism is the official keeper of the records on recidivism for the U.S. government. I am suggesting that in the disclaimer and the part that every citizen that is checking a sex offender registry have to read and check a box that they have read it. That the statistics that the U.S. Dept. of Justice has on recidivism of sex offenders be posted on the opening pages of any sex offender registry in the U.S. A. That also must be checked that the person opening the sex offender registry has read it and understands it. And that a link to the U. S. Dept. of Justice Bureau of Justice web sight also should be posted. The web sight is as follows:
http://www.ojp.usdoj.gov/bjs/pub/press/rsorp94pr.htm

Reason: I am suggesting that this be added in that would help cut down on the wrong ideas about sex offenders, that they are all going to repeat a sex crime. Also it would cut down on the vigilante effects that present sex offender registry's are having on people posted on the registry. Given that the official department of the government puts sex offenders that may re-offend within 3 years of release from prison at 5.3% charged with a sex crime and 3.5% of them reconvicted of a sex crime. In that this is one of the lowest recidivism rates for all criminals with the exception of those criminals that have committed murder. It should be incumbent on the government that is requiring Sex Offender Registries, to also put out the official numbers on recidivism so help educate the public. Furthermore this will assist with the public not thinking that they are safe fully if they know were all sex offenders are. The governments own numbers show that over 90% of all sexual assaults are committed by a person well known and trusted by the victim, be that victim an adult or child, with over 50% of those being a family member. So it is important to the public and in the best interest of the government to require that all the official facts be placed on all sex offender registries within the United States. Thank You

Rogers, Laura

From: [redacted]
Sent: Tuesday, June 26, 2007 12:08 PM
To: GetSMART
Cc: christine_leonard@40judiciary-dem.senate.gov
Subject: OAG Docket No 121

I am writing to you today about the rules that the AG's office has issued on the Adam Walsh act. I find that they are missing some very important points. The reasoning behind the SONRA is to identify sex offenders who are at high risk to re- offend. If that is the case and you are not just trying to punish offenders further, the SNORA should provide a reasoned, circumspect petition process for removal from the SNORA and state registries. A provision is needed to allow registered individuals, identified empirically as a low - risk to the community, the opportunity to petition for release fro the registry. No public good is served by stigmatizing and isolating low - risk or rehabilitated people, exposing them to harassment, and depriving them of the normal opportunities for education, employment, and housing. By leaving these low - risk offenders on the registry we are also making it harder for the public to locate which offenders are high risk and require special watching. Furthermore it goes against the original Supreme court ruling (Smith v Doe) that said that sex offender registries are not meant as punishment and should be used to protect the public from high risk offenders.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:40 PM
To: Rosengarten, Clark
Subject: FW: OAg Docket No 121

From: Tim Poxson[redacted]
Sent: Tuesday, July 24, 2007 1:08 PM
To: GetSMART
Cc: christine_leonard@judiciary-dem.senate.gov
Subject: OAg Docket No 121

The SORNA should include a requirement that each state have an opening page to the sex offender registry that as the reader signs off they will comply with the terms and conditions of use of the sex offender registry, and before doing the check off the reader is given some educational facts with directions to the web pages that support the educational facts on sex offenders. One such fact that should be included is that the US Dept. Of Justice Bureau of Justice Statistics on Recidivism says that " within three years of release from prison sex offenders 3.5% of them will be reconvicted of another sex crime. " This information needs to be included so the public gets some more of the facts known to the government. If sex offender registries fail to include this type of information the public is given the false idea that if they know who and were all sex offenders are, they and their family's will be safe from sexual assaults. Given that the governments own statistics show that over 90% of sexual assaults are committed by a person well known and trusted by the victim, and over 50% of sexual assaults are done by a family member, to give the public the false idea that knowing were all sexual offenders are will protect them is not good public policy. The full picture should be painted so the public does not move forward with a false sense of security.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 10:59 AM
Rosengarten, Clark; Rogers, Laura; Kaplan, April
Subject: FW: OAG Docket No. 121 Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification ACT (SORNA) regarding adults

Attachments: 20121-Home Office-Review of the protection of children from sex offenders.pdf; Shajnfeld, A. & Krueger, R-Non-Puntive Responses to Sex Offending copy.pdf; Z-Los Angeles Times- The new American witch hunt.pdf; Static-99-coding-Rule#80763.pdf


20121-Home Office-Review of th..


Shajnfeld, A. & Krueger, R-Non...


Z-Los Angeles Times- The new A...


Static-99-coding-Rule#80763.pd...

-----Original Message-----
From: Richard B. Krueger, M.D. [redacted]
Sent: Monday, July 30, 2007 7:27 PM
To: GetSMART
Cc: Alisa Klein; Meg Kaplan
Subject: Re: OAG Docket No. 121 Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification ACT (SORNA) regarding adults

Dear Ms. Rogers:

colleague pointed out that there was an editing issue with my recent e-mail to you, so lease find my re-edited comments below:

writing to offer some broad commentary on the proposed guidelines.

have done research on and evaluated and treated adult sex offenders for 20 years.

have evaluated several hundred offenders arrested for crimes against children using the nternet and/or involving child pornography obtained via the Internet. Additionally, I ave performed risk assessments on hundreds of sex offenders for the State of New York.

roadly speaking, I support a system of registration and tracking of individuals convicted f sex offenses who are at substantial risk of reoffense. The proposed federal guidelines re analogous to the current system of national registration of physicians who have had alpractice or disciplinary actions against them, and who, before the creation of a ational physician database, could pick up and move to another state. This has ended with he national database.

am concerned, however, that the proposed guidelines go too far in terms of public otification and in the removal incentive for individuals to not reoffend.

am appending an article which I co-authored on the so-called "non-punative" aspects of ex offender sentencing and an op-ed that I was asked to write for the Los Angeles Times, hich questions the logic of including offenders in public notification using the Internet hose only crime has been the possession of child pornography.

dditionally I am including a report that was just released by Great Britain's Home Office hich examined the system of community notification existent in the United States, and oncluded that a system of controlled disclosure made more sense for Britain, because ublic disclosure in the United States had actually been counterproductive, resulting in omelessness and authorities losing track of sex offenders.

ld also suggest that better discrimination of sentencing and conditions of probation he community should be developed which would take into account an individual's risk of xual reoffense utilizing modern actuarial instruments developed to assess risk, and I

ve appended a copy
nada routinely, and now in New York State.

hank you for your consideration of my commentary

cerely,

ard B. Krueger, M.D.

[redacted]

. DO NOT EVEN IN THE LEAST KNOW THE FINAL CAUSE OF SEXUALITY. THE WHOLE SUBJECT IS IDDEN IN DARKNESS--CHARLES DARWIN 1862.

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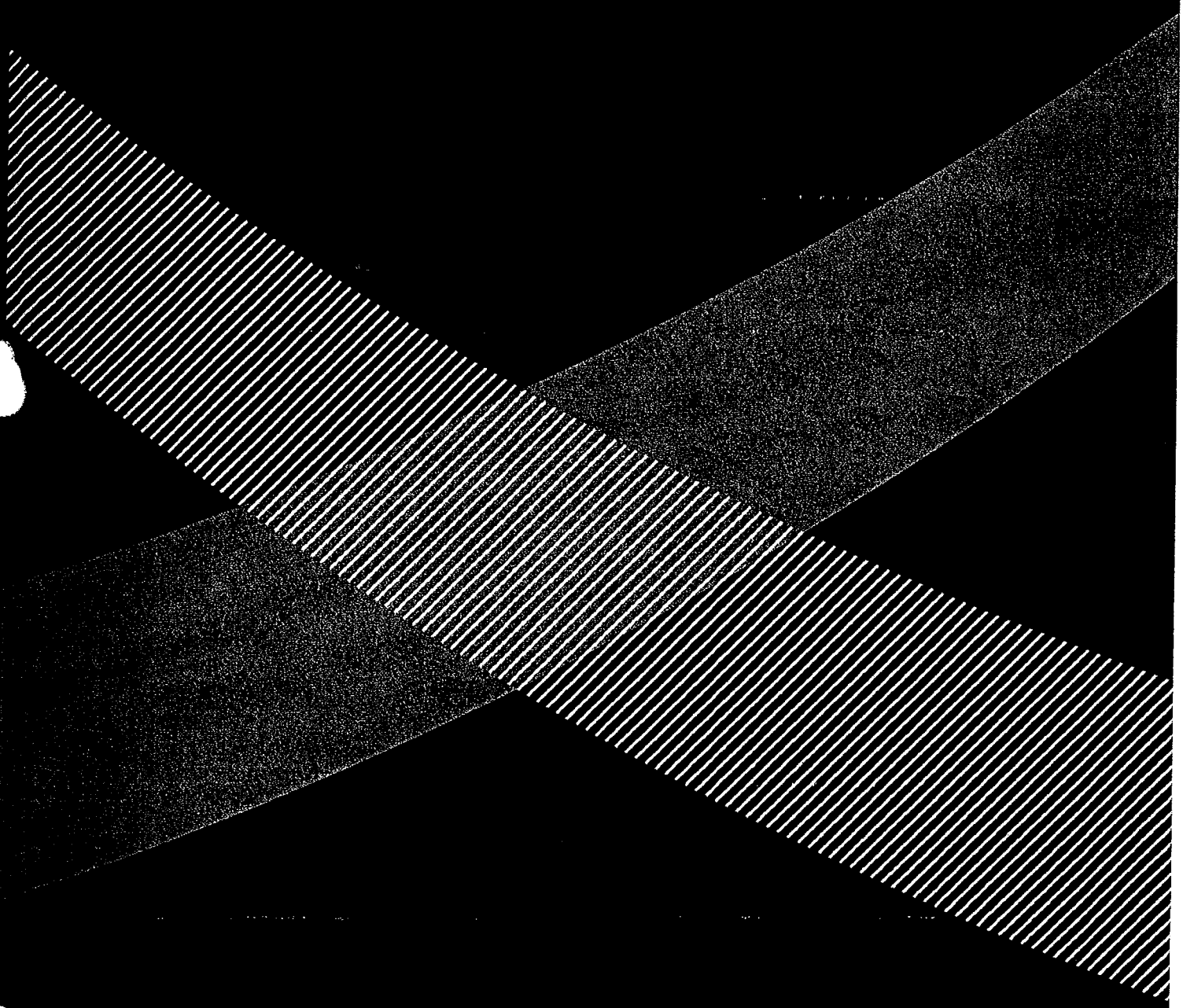
hank you for your cooperation.

REVIEW OF THE PROTECTION OF CHILDREN FROM SEX OFFENDERS

Home Office



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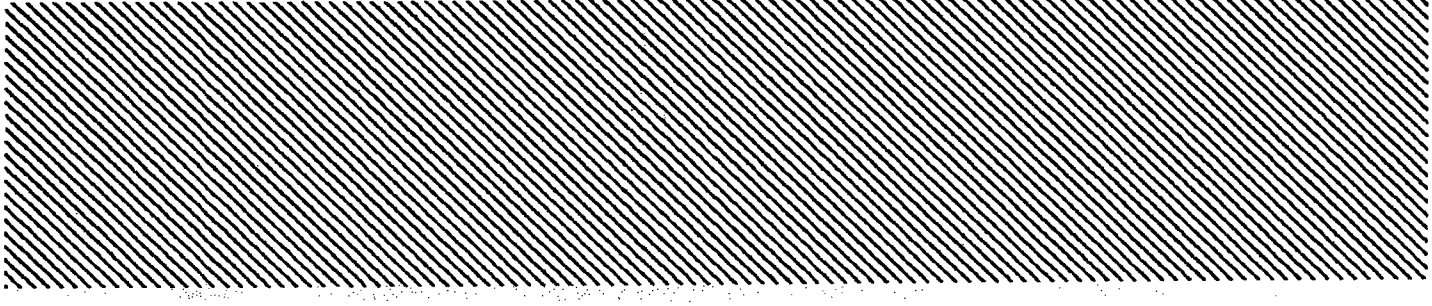


Ministerial foreword

The protection of our children is of the greatest importance to all of us. There are few crimes more damaging, more emotive and more sensitive than sexual offences against children. The impact of these offences on the victims and their families is devastating. The public deserves to be protected from these offenders, by keeping them in prison while they pose too great a risk to be released, and by effectively managing and monitoring those who are released into the community. We should be ready to use the most up-to-date methods and technology to help us achieve this.

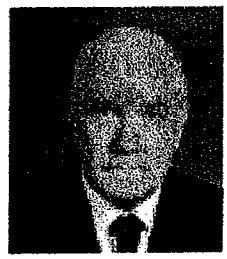
We have done a lot in recent years to improve public protection. Sex offenders must register with the police, they are visited in their homes, and if they break the rules they are sent back to prison. We have developed treatment shown to be effective in preventing re-offending. There are over 100 approved premises where high-risk offenders are closely supervised.

But while these measures have greatly increased public protection from sex offenders, I believe we can still do much more, and so in June last year I called for a review of the management of child sex offenders. This review has been a careful examination of where improvements in public protection can be made, to give greater reassurance to the public by creating a safer environment.

As Home Secretary, public protection is my priority. As part of the review, we have looked at how other countries operate. Although we have found that we are one of the leading countries in the management of sex offenders, I still want to see a process of continual improvement.

The proposals set out in this review will lead to short, medium and long-term improvements in how we protect children from sex offenders. They range from strengthening guidance and bringing in new laws, to providing more information about convicted child sex offenders to the public. We have consulted closely with police, childcare agencies and victims' organisations, and listening to stakeholders has been vital to the review. I want to see that continue through the national stakeholder advisory group for sexual violence and abuse. It is important that these views are heard as we begin to implement the actions in this report.

The Government and authorities have a vital role in managing offenders, but as parents, grandparents and carers, we all have a stake in protecting children and an important role to play.



Dr John Reid
Home Secretary

Executive summary

In June 2006, the Home Secretary commissioned a comprehensive review of child sex offenders and protecting the public.

The review has carefully explored how we can improve child protection and provide greater reassurance to the public on the management of these offenders. The test of any proposal in this area should be whether its introduction would enhance the protection of children.

To inform the process there have been extensive discussions with organisations with a stake in child protection, such as the National Society for the Prevention of Cruelty to Children (NSPCC) and Barnardo's. The views of police and probation professionals working on the front line have also been sought, and international comparisons have been carried out on approaches to sex offender management. This process of consultation will continue through the national stakeholder advisory group for sexual violence and abuse.

This document sets out our plans to improve the way we protect our children. The main actions are listed below:

GREATER RIGHTS AND MORE INFORMATION FOR THE PUBLIC

- We will strengthen the multi-agency system (Multi-Agency Public Protection Arrangements – MAPPA) that manages offenders and apply good practice more consistently, and we will seek to improve public awareness of how we manage known sex offenders.
- There will be a duty on MAPPA authorities (including the police and probation services) to consider the disclosure of information on offenders in every case.
- We will pilot a new process whereby certain people can register with the police their child protection interest in a named individual. Where this individual is a known child sex offender, there will be a duty on the police to consider disclosure. In all instances, general guidance on child protection will be provided in response to enquiries about offenders.

NEXT STEPS

- We will change the law so that we will be able to require registered sex offenders to notify the police of any foreign travel, whether anyone under 18 is living at their registered address, e-mail addresses and their passport and bank account details.
- We will optimise use of the latest technology in the management of offenders, including trialling the use of mandatory polygraph tests (lie detectors), and we will review the use of satellite tagging and tracking.
- We will maximise the number of offenders treated and the effectiveness of that treatment.
- Restrictions on placing child sex offenders in approved premises immediately adjacent to schools and nurseries will continue.
- We will develop national standards for MAPPA and ensure each area has strong central co-ordination and administration. There will also be greater MAPPA engagement with the community, and a central point of contact for the public.
- We will establish a defined and consistent role for MAPPA lay advisers, which will include increasing public awareness.
- There will be compulsory programmes of activity for offenders residing at approved premises, and there will be a standard set of core rules of residence.

Introduction

In June 2006, the Home Secretary commissioned a comprehensive review of the arrangements for protecting children from sex offenders. The review considered the way in which the risks presented by child sex offenders in the community are managed, including the amount of information about child sex offenders that is disclosed to the public.

There have always been child sex offenders, and we know that they are present in every community around the world. These offences cause enormous anxiety and trauma because the victims, the children, are vulnerable and unable to protect themselves. As parents and carers, we want to protect a child's innocence, which is immensely precious to us.

To prevent these offences from occurring, we need to manage offenders effectively and be alert to the risks. Child sex offenders do not all fall into the same category. There is a wide range of offending activity, some of which involves physical contact and some of which does not (for example internet offences). But all of these are serious crimes. Of the offenders themselves, we know that about 30 per cent are aged under 18,[1] approximately 99 per cent are male,[2] and at least 75 per cent are known to their victims as either a relative or a family friend.[3]

In recent years we have learnt more about child sex offending and have begun to talk more openly about it, although it is still a greatly under-reported crime. We need to do more to encourage victims to break the taboo and speak out. Research shows that 72 per cent of sexually abused children do not tell anyone about what has happened at the time, and that 31 per cent still have not told anyone by early adulthood.[4]

In addition, we have developed increasingly sophisticated systems for managing offenders and protecting children. The UK is now considered to have a better management system than most other countries. Although we will never be able to build an entirely risk-free environment, it is our aim to do everything we can to minimise the risk to children.

In carrying out this review, the Home Office has looked at every aspect of how child sex offenders are managed, and has explored how the systems and arrangements in place might be improved. As well as working closely with other government departments and police and probation service professionals, we have sought the opinions and expertise of a wide range of non-governmental organisations and lobby groups representing children and victims of sexual abuse, and offenders. These include organisations such as the NSPCC, Barnardo's and Stop it Now!

We have looked at practice in other countries to see whether any elements might enhance child protection in the UK, including detailed research and a conference with colleagues from a number of EU states. We have also visited the United States to investigate how 'Megan's Law' is working and what impact it has had on child protection. 'Megan's Law' allows communities direct, uncontrolled access to information on offenders, mainly through websites.

We have been in discussion with colleagues in the Department of Health and the Department for Education and Skills, as well as in Scotland and Northern Ireland. Close discussion will continue across government when it comes to implementing the proposals in this report.

The principal aim of all the actions in this report is to provide greater child protection. This may be achieved through reducing re-offending by known offenders, preventing initial offending, and identifying where offences are taking place by increasing people's confidence to report them.

[1] Fisher, D and Beech, A, Adult Male Sex Offenders in Kemshall, H and Melvor, G (eds), *Managing Sex Offender Risk* (pp 25–47), Research Highlights in Social Work 46, Jessica Kingsley Publishers, London, 2004.

[2] *Offender management caseload statistics 2005*, Home Office Statistical Bulletin 18/06, Research, Development and Statistics, National Offender Management Service, 2006.

[3] Grubin, D, *Sex offending against children: Understanding the risk*, Police Research Series Paper 99, Home Office, 1998.

[4] *Key child protection statistics: sexual abuse*, NSPCC, March 2006.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:41 AM
To: Rosengarten, Clark
Subject: FW: Child Care Association of Illinois Comments on the Proposed Implementation Guidelines of SORNA
Attachments: CCA Proposed Guidelines Commments.doc

From: Patricia Berg [redacted]
Sent: Wednesday, August 01, 2007 7:46 PM
To: GetSMART
Subject: Child Care Association of Illinois Comments on the Proposed Implementation Guidelines of SORNA

Attached please find comments submitted from The Child Care Association of Illinois in response to the Guidelines for Implementation for SORNA.

Please let us know if we may be of any further assistance.

Thank you,

Patricia Berg Yapp
Associate Director
Child Care Association of Illinois
413 West Monroe Street
Springfield, Illinois 62704
1-217-446-6066

August 1, 2007

VIA ELECTRONIC MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

The U.S. Department of Justice has invited public comment on the proposed National Guidelines for the Sex Offender Registration and Notification of Act of 2006 (SORNA). In response to that invitation, The Child Care Association of Illinois has reviewed the interim Guidelines and submits the following comments and recommendations for your consideration.

The Child Care Association of Illinois (CCAI) is a not-for-profit membership organization dedicated to improving the delivery of social services to the abused, neglected, troubled and traumatized children, youth and families of Illinois. The CCAI is comprised of more than 70 nonprofit agencies that provide child welfare, youth and juvenile justice services, and children's mental health and prevention services throughout Illinois. Member agencies are the backbone of the child welfare and juvenile justice systems in Illinois and annually provide services to approximately 400,000 clients.

As treatment professionals and child advocates, we have dedicated our professional lives to preventing and eliminating child abuse. Any time a child is harmed or killed by an adult sex offender, we and the public become very alarmed. We laud your attention to this vital issue.

CCAI agencies provide a unique perspective about the impact of SORNA <u>on all children and youth</u> because they provide specialized treatment services to both victims and youthful offenders. They possess expertise as child advocates and as treatment professionals with extensive experience working children and youth who have been abused and neglected and those who have been victims of trauma, including sexual offending. At the same time, many have created specialized programs for treating juvenile sexual offenders in residential and group home settings, within foster care and independent living arrangements as well as in out-patient venues. As a result of our service delivery concentration and expertise, along with our overriding concern about the safety of all children and youth, *CCAI agencies fear that the impact of SORNA on youthful offenders and their victims, as presently constituted, will undercut the very purpose of the Act – which is to protect children from sexual abuse and violent crime.*

What follows are the specific objections we have identified with the Proposed Guidelines.

CCAI objects to the application of SORNA to sexually offending youth adjudicated within the juvenile court system because...

Application Of The Guidelines To Youthful Offenders Is Contrary To Current Research

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.

Decades of research emphasize that there are **huge differences between youth who sexually abuse younger children and adult sex offenders**. When children and teenagers engage in sexually abusive behaviors, it is typically different from adult sexual offending in its nature, extent, and response to intervention. Juveniles have significantly lower frequency of the more extreme forms of sexual aggression, fantasy, and compulsivity. A deviant sexual interest in young children, which is a major motivating factor among adult sex offenders, does not appear to play a role in the behavior of most children and teens. With rare exceptions, these youth are not pedophiles. Rather, these behaviors are opportunistic, driven by curiosity and poor judgment, and are more impulsive than compulsive. These differences have been reported by panels commissioned by the U.S. Department of Justice, by public information resources, and by professional and research organizations. Despite this, SORNA subjects both juvenile and adult sex offenders to the same registration and classification provisions.

According to a Fact Sheet developed by the National Center of Sexual Behavior of Youth (NCSBY), at the Center on Child Abuse and Neglect, University of Oklahoma Health Sciences Center based on reports from the Center for Sex Offender Management at the U.S. Department of Justice, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). [2] In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for non-sex offenses typical of other juvenile delinquents either before or subsequent to their arrest for a sexual offense.[3] The Center also found that adolescent sex offenders are more responsive to treatment than adult sex offenders and do not appear to continue re-offending into adulthood, especially when provided with appropriate treatment.[4]

Research indicates that most juveniles who commit sex offenses are boys around 13 or 14. That may be their only similarity because they differ widely on other characteristics. A small percentage (no one knows how many) will become adult rapists or pedophiles; 90 percent or more, will not. Most have not committed violent assaults or abused multiple children repeatedly. Usually they have had sexual contact with a child who is at least two years younger than they are. Some are overly impulsive or immature adolescents who are unable to approach girls or boys their own age; instead, they engage in inappropriate sexual acts with younger children. Others are delinquent juveniles for whom sexual abuse is just one of the many ways they break the law. According to studies, these youth are much more likely to commit a property crime than they are to commit a second sex offense. Still others are otherwise well-functioning youth with limited behavioral or psychological problems. Some come from well-functioning families while others come from chaotic or abusive backgrounds. There are a number of children who are adjudicated for "playing doctor". Likewise, there are the so-called "Romeo and Juliet" cases, where there has been consensual sex between two teenagers.

In addition, recent findings from neuroscience indicate that brain maturation is a process that continues into early adulthood. There is good evidence that the brain systems that govern impulse control, sense of future consequences, planning, and thinking ahead are still developing well beyond age 18. This lack of maturity and impulsivity play a significant role in the sexualized manifestations of what is truly an impulse control problem for many youth who sexually offend. By placing juvenile offenders on the registry, for as long as life in some cases, both avenues of research are contradicted.

Application Of The Guidelines To Youthful Offenders Violates Longstanding Tenets Of Juvenile Justice

In 1899, the first Juvenile Court in the country was created out of a belief that it was unfair to try adolescents as adults. Since that time, the philosophy of the Juvenile Court has been that children ought to be afforded special consideration, guidance, protection and treatment because most youth who break the law in childhood or early adolescence will grow out of this behavior with the right support and direction. As a result, juvenile courts have protected the identity of youth coming before it while dispensing individualized justice. These practices are rooted in the belief that youth should not be stigmatized for life on the basis of their childhood behavior. Court decisions about culpability and subsequent sanctions, if any, have historically been based upon the best interests of the child and form the basis for adjudicating youth in juvenile court rather than convicting them in adult criminal court.

Thus, the basic premise of the juvenile justice system is that adolescents who commit crimes are different from adults in ways that make them potentially less blameworthy than adults who commit similar acts. In the 2005 landmark U.S. Supreme Court decision, the Court outlawed the death penalty for offenders who were younger than 18 when they committed their crimes. The heart of the ruling was the issue of culpability, or criminal blameworthiness.

The legal system has long held that criminal punishment should be based not only on the harm caused, but also on the blameworthiness of the offender. How blameworthy a person is rests on the circumstances of the crime and of the person committing it. Traditionally, the courts have considered several categories of mitigating factors when determining culpability. These include:

- Impaired decision-making capacity, usually due to mental illness or disability,
- The circumstances of the crime—for example, whether it was committed under duress,
- The individual's personal character, which may suggest a low risk of continuing crime.

Such factors don't exempt a person from punishment but do indicate that the punishment should be less than it would be for others committing similar crimes, who are different or who do so under different circumstances. Including juveniles in the SORNA registration requirements not only violate our tradition of American juvenile justice but also calls into question the very foundation of the entire juvenile justice system. At the same time, it creates a special class of juveniles who are explicitly required to suffer public identification and stigma, possibly for the rest of their lives.

Application Of The Guidelines To Youthful Offenders Will Be Harmful Rather Than Rehabilitative To Juveniles Who Offend

Labeling a juvenile as a "child sexual predator" can have lifelong, irreversible and detrimental effects on a person and his or her family members. When a young person is so labeled, we are sending a very strong message: "This is how you are going to be identified. This is who you are". With such an act, we remove the rehabilitative element that is the philosophical foundation of our juvenile justice system and at the same time cement an identity that is contrary to what we actually desire, which is a normal and healthy young person.

Many child sex offenders are victims of sexual abuse themselves. Many more engage in common sexual behavior, sometimes healthy, sometimes inappropriate, that, as they mature, they will learn to manage. The stigmatization of registration will isolate these youth from normal and healthy opportunities for growth and development. Their access to school may be threatened. Their ability to join youth clubs and associations may be restricted or forbidden. Their opportunities to develop positive peer relationships may be denied because other parents will be afraid to let them associate with their children. The consequence of registration to

youthful offenders will only exacerbate any problems they may already have, destroy social networks critical for rehabilitation [5] and increase the chances that they will engage in future criminal behavior, both sexual and nonsexual.[6]

Nearly 1/3 of sexually abused children will exhibit some sort of sexual behavior problem in response to their abuse. In some cases, this behavior may involve other children or younger children and result in a delinquent adjudication. It would be a travesty of justice for these victims to be tarnished with the public label of offender at the very moment they require specialized services as victims which, in all likelihood, would be denied to them were they so labeled.

SORNA as applied to youth will also have a negative and disruptive impact on their families. Already under stress from the offender's situation, the families too may become isolated from normal community supports and assistance just at the time when they need aid and comfort the most. They may have to move or change jobs because of restrictions on residency, e.g., prohibitions on living within so many feet of a park or school or within a structure. In the majority of cases, the family's address and phone number will be published because that is where the youth lives and what he must report. The community may initially wonder who the real sex offender is, not knowing whether child or adult. Siblings will become identified as part of the family and harassed by their peers. Their school may be the same one attended by the offender.

SORNA as applied to youth will also have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. Faced with the prospect that their child may be required to register, possibly for life, parents will be more inclined to hide their child's problem and not seek help rather than holding their child accountable and seeking appropriate treatment. As treatment professionals, we know that early intervention is critical to successful therapeutic outcomes. In addition, prosecutors and judges may be more eager to enter into a plea agreement and reduce charges because the youth before them will be required to register. In jurisdictions where adjudication is required for treatment access, those youth who need rehabilitative treatment and who would likely benefit the most, are those who would become inadmissible.

SORNA as applied to juveniles will be a poor identifier of potential violent predators and lessen the predictive value of the registry as a weapon for use by law enforcement. SORNA was proposed as a comprehensive revision of the national standards for sex offender registration and notification. The Act's stated purpose is to respond to "vicious attacks by violent sexual predators" by reforming, strengthening and increasing the effectiveness of sex offender registration and notification for the protection of the public. The idea is to make identification of suspects readily available across police jurisdictions to help them locate perpetrators based upon the premise that those who offended in the past will be most likely to offend in the future. But a number of re-compiled youth cohort studies over the last few decades have discovered that the majority of children and teenagers adjudicated for sex offenses do not become adult sex offenders. [7] Indeed, studies have found that 92% of all adult sex offenders were never juvenile offenders. [8] Lumping low risk youthful offenders in with high-risk adult offenders dilutes the usefulness of the information and places an unnecessarily heavy administrative burden on law enforcement as they search the ever expanding data base.

Application Of The Guidelines To Youthful Offenders Who Are Developmentally Delayed Will Be Exceptionally Atrocious

Youth who are developmentally delayed and who commit sexual offenses pose a unique problem in the juvenile justice system from an adjudicatory as well as a treatment perspective.

One of the hallmarks of mental retardation is the impulsivity with which these youth react to a variety of situations. As puberty evolves and they experience sexual feelings, they simply act on the impulse. From research, it appears that developmentally delayed juvenile sex offenders are more likely to engage in hands-off sexually problematic behaviors (e.g., public masturbation, exhibition, voyeurism) and are much less covertly predatory than average IQ offenders. At the same time, they are more likely to be caught due to their lack of social skills and inept behavior. Youth who are classified as developmentally delayed and who commit sexual offenses differ from average IQ juvenile sex offenders in that their life is characterized by greater degrees of impulsivity, poorer social cue interpretation, and fewer coping skills which subsequently leads to increased frustration and even more impulsivity. What's more these youth are more likely to have been sexually abused themselves.

While these youth may know that what they did was "bad or wrong", they most certainly do not fully comprehend the ramifications of their actions because they are functioning intellectually, at best, at the level of a 6th grader and at worst, at that of a kindergartener or 1st grader. As a result, juvenile court jurisdictions have been loathe to place these youth in detention, opting instead for placement in highly structured behavior modification programs that teach them impulse control. Unfortunately, as DD youth age chronologically they remain child like intellectually so that offenses committed as "adults" will likely land the DD person in prison with the general population, where they are overrepresented, subject to longer periods of incarceration and more frequent stays in solitary confinement (often for their own protection) and have less access to alternative sentencing arrangements than non-disabled inmates.

The burden of registration is particularly heavy on this population. One registration requirement is that offenders, in writing, acknowledge that they understand the registration requirements. How will the implementation of the Guidelines affect developmentally disabled youth and children who may chronologically fall under SORNA's purview but who intellectually cannot understand the import of their actions? Can they be held responsible for agreeing to something that they do not truly understand? What if they do not have another responsible party to look after them and make sure they report on time and in accordance with the Act? Given their intellectual capabilities, that situation would be the same as expecting a 2nd grader to report in person to a law enforcement official on a regularly scheduled basis. Were they not to report would we send the 2nd grader to prison? Will we send these people?

Application Of The Guidelines To Youthful Offenders Will Violate Victim Protections In Many Cases

Conventional wisdom among those who provide treatment to adolescent sexual offenders is that many youthful offenders commit acts against other family members. Various research attempts into this particular aspect of adolescent sexual offending have found that anywhere between 18 – 43% of those who sexually offend do so within their own family. SORNA registration requirements dictate that public registration includes not only the name and address of the offender, but also the offense and offense history. What that will mean for interfamily victims, is that their identities will be easily inferred from the information posted on the register.

The emotional consequences of child sexual abuse can range from low self-esteem to serious mental health problems. Many of these youth suffer from having been manipulated rather than explicitly coerced into these activities. As a result, they may feel responsible for, or at least complicit in, the sexual behaviors. The unintended consequence of their public exposure will only serve to further heighten the sense of shame and embarrassment many of them feel and impede their own progress towards healing. They may be taunted at school or, worse, shunned

by their peers and their families reinforcing the belief that "it was their fault". Stigmatization will be a blanket they too will wear.

Application Of The Guidelines To Youth Is Inconsistent With Other Portions Of The Act
Section 111(5)(B) of SORNA indicates that registration need not be required on the basis of a foreign conviction if the conviction " was not obtained with sufficient safeguards for fundamental fairness and due process" for the accused under guidelines or regulations established by the Attorney General. Later on in this section, "sufficient safeguards for fundamental fairness and due process" are deemed to have been obtained if the US State Department, in its Country Reports on Human Rights Practices, has concluded that an independent judiciary enforced the right to a fair trial. Further, the conviction does not constitute a reliable indication of guilt if there is the lack of an impartial tribunal, the denial of the right to respond to the evidence against the person, or to present exculpatory evidence or of denial of the right to the assistance of counsel.

Because of the nature of juvenile courts, these proceedings are not adequate forums to preserve the due process rights of youth for purposes of sex offender registration and notification. When juveniles are tried in juvenile courts in most states, they are not given the full scope of rights adult defendants receive in criminal courts, such as a trial by jury. Knowing that the majority of juveniles will not receive the full scope of procedural rights that adult defendants receive which provide sufficient safeguards for fundamental fairness and due process, juveniles adjudicated in juvenile court should be given the same consideration as their foreign counterparts and not be placed on the register.

Application Of The Guidelines To Youth Will Place Those Identified At Risk Of Exploitation
The public notification elements of SORNA as applied to youth will expose them more easily to adult predators.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will also be able to access the registry via the Internet and identify adjudicated youth within their own community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, registered youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually offending behavior.

Recommendations:

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System
The Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the identified authorities but not by the general public. The law should also specify a designated agency, to determine whether community notification is required and in what form, whether in writing or posting on the Internet. These allowances will serve the public safety purposes of the Adam Walsh Act while maintaining the privacy provisions so fundamental to our juvenile court system, furthering the ability of youth to take full advantage of treatment and allowing innocent family members to maintain some measure of privacy.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If SORNA must be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how long a youth must register as a sex offender. Judicial guidelines should be promulgated that identify factors judges must consider when exercising that discretion so that the application becomes consistent throughout the States. This would take into account both community safety and the critical differences between adult and juvenile offenders and maintain the individualized dispensation of justice so central to the juvenile court system.

The Child Care Association of Illinois supports safety for children and families throughout the nation, efforts to hold offenders accountable and the protection of youth and children. However, we believe that the Proposed Guidelines will have a negative impact on our efforts to reclaim youth adjudicated as sexual offenders within the juvenile court system and provide the protection for our children we all long for.

Thank you for the opportunity to comment on the Proposed Guidelines. We trust that our comments will be given serious and thoughtful consideration.

Sincerely,

Associate Director
Child Care Association of Illinois
413 West Monroe Street
Springfield, Illinois 62704
1-217-446-6066

References:

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R. Figlio. Delinquency in a Birth Cohort II: A Comparison of the 1945 and 1958 Philadelphia Birth Cohort. Washington, DC: National Institute of Juvenile Justice and Delinquency Prevention. (Final Report 83-JN-AX-0006.) 1984; Wolfgang, M., R. Figlio and T. Sellin. Delinquency in a Birth Cohort. Chicago: University of Chicago Press. 1972). (January 2007).

8. Franklin E. Zimring. The Predictive Power of Juvenile Sex Offending: Evidence from the Second Philadelphia Birth Cohort Study and Juvenile and Adult Sexual Offending in Racine, Wisconsin: Does Early Sex Offending Predict Later Sex Offending in Youth and Young Adulthood? (January 2007.)

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Monday, August 06, 2007 10:44 AM
To: Rosengarten, Clark
Subject: FW: Alaska Division of Juvenile Justice Comments on SORNA (Adam Walsh Act) Guidelines

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From: Newman, Anthony (HSS) [mailto:tony_newman@health.state.ak.us]
Sent: Wednesday, August 01, 2007 1:18 PM
To: GetSMART
Cc: Wood, Leonard R (HSS)
Subject: Alaska Division of Juvenile Justice Comments on SORNA (Adam Walsh Act) Guidelines

August 1, 2007

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

It was good to meet you in Indianapolis last week at the National Symposium on Sex Offender Management and Accountability. You did a wonderful job of bringing together a huge crowd of people, addressing their concerns, and providing them with important food for thought. Thanks for all your hard work.

I am writing now to provide you with comments, on behalf of the Alaska Division of Juvenile Justice, on the current proposed guidelines to the Sex Offender Registration and Notification Act of 2006 (SORNA).

The mission of Alaska's Division of Juvenile Justice is to hold juvenile offenders accountable for their behavior, promote the safety and restoration of victims and communities, and assist offenders and their families in developing skills to prevent crime. Our agency operates eight juvenile detention and treatment facilities around the state, provides intake, diversion, and probation supervision services for approximately 3,900 juveniles a year, and works closely with a variety of community partners to prevent and intervene in delinquent behavior. As such, we have a keen interest in regulations and laws related to juvenile sex offenders.

We believe that application of the guidelines to youth is contrary to research--including research sponsored by the U.S. Department of Justice.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior. In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

These results competently argue against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the guidelines to youth will interfere with effective treatment and rehabilitation.

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out. The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess, destroying the social networks necessary for rehabilitation.

pplication of the guidelines to youth will put youth at risk of exploitation.

ORNA as applied to youth is not in accord with the Act's public safety objective of "protect [ing] the public from sex offenders and offenders against children," in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines should allow for judicial discretion in cases of youth adjudicated as juveniles.

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines should waive public registration and community notification requirements for youth adjudicated within the juvenile court system.

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but

not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion.

As noted, the Alaska Division of Juvenile Justice supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Tony Newman
Social Services Program Officer
Division of Juvenile Justice
Department of Health and Social Services
State of Alaska
P.O. Box 110635
Juneau, AK 99811-0635
(907)465-1382 (phone)
(907)465-2333 (fax)
(907)321-3989 (cell)
Tony.Newman@alaska.gov

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 5:11 PM
To: Rosengarten, Clark
Subject: FW: OAG Docket No. 121--Comments on Proposed Guidelines
Attachments: Comments on Proposed SORNA Guidelines OAG 121 Final Lttrhd.doc

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From: Tara Andrews [mailto:andrews@juvjustice.org]
Sent: Tuesday, July 31, 2007 4:51 PM
To: GetSMART
Subject: OAG Docket No. 121--Comments on Proposed Guidelines

July 31, 2007

VIA ELECTRONIC MAIL (Pasted Below and Attached)

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:
The Coalition for Juvenile Justice (CJJ) is a representative national nonprofit organization based in Washington, D.C. Created in 1984, CJJ comprises Governor-appointed State Advisory Groups (SAGs) charged to fulfill the mandates as well as the spirit of the federal Juvenile Justice and Delinquency Prevention Act. Working together with allied individuals and organizations, SAGs seek to improve the circumstances of vulnerable and troubled children, youth and families involved with the courts, and to build safe communities. Today, more than 1,500 CJJ members span the U.S. states and territories, providing a forum for sharing best practices, innovations, policy recommendations and peer support.
As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), the Coalition for Juvenile Justice takes this opportunity to express our strong opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines.
In doing so, we incorporate by reference the complete Comments we submitted to David Karp on April 30, 2007, voicing our Opposition to Interim Rule RIN 1.105--AB22, OAG Docket No. 117.
Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice
The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.
According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the enter on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive

[i]

sexual behavior. In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for [ii]

non-sex offenses typical of other juvenile delinquents.

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will also have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate treatment, parents may be inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, [iii]

forcing them to drop out. The stigma that arises from community notification serves to "exacerbate" [iv]

the "poor social skills" many juvenile offenders possess, destroying the social networks necessary for [v]

rehabilitation.

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation

SORNA as applied to youth is not in accord with the Act's public safety objective of "protect[ing] the public from sex offenders and offenders against children," in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the

juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or [vi]

17-year-olds to adult courts.

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide will be registered in one or both of the parents' names.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

The Coalition for Juvenile Justice supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Nancy Gannon Hornberger
Executive Director

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[i]

National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report;* available at http://www.ojjdp.ncjrs.org/.

[ii]

Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[iii]

Freeman-Longo, R.E. (2000). Pg. 9. *Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem.* American Probation and Parole Association.
http://www.appa-net.org/revisitingmegan.pdf.

[iv]

Garfinkle, E., Comment, 2003. *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles.* 91 California Law Review 163.

[v]

Ibid.

[vi]

This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Thursday, July 26, 2007 3:44 PM
To: Rosengarten, Clark
Subject: FW: SORNA comments
Attachments: SORNA comments.doc

From: Goemann, Melissa [redacted]
Sent: Wednesday, July 25, 2007 12:35 PM
To: GetSMART
Subject: SORNA comments

Dear Ms. Rogers,

Attached please find our written comments regarding the SORNA guidelines. Thank you.

Melissa Coretz Goemann
Director
Mid-Atlantic Juvenile Defender Center
Juvenile Law and Policy Clinic
University of Richmond School of Law
(804) 287-6468 (phone); (804) 287-6489 (fax)
[redacted]

The Mid-Atlantic Juvenile Defender Center

District of Columbia • Maryland • Puerto Rico • Virginia • West Virginia

ensuring excellence in juvenile defense and promoting justice for all children

July 25, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office—Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Re: OAG Docket No. 121--Comments on Proposed Guidelines to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), the Mid-Atlantic Juvenile Defender Center takes this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines.

The Mid-Atlantic Juvenile Defender Center (MAJDC) is a multi-faceted juvenile defense resource center serving the District of Columbia, Maryland, Virginia, West Virginia, and Puerto Rico. We are committed to working within communities to ensure excellence in juvenile defense and justice for all children. We are a regional affiliate of the National Juvenile Defender Center in Washington, D.C. Part of our work includes training juvenile defenders and we have held trainings on the issue of handling juvenile sex offense cases.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.

According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[i] In addition, the recidivism rate among juvenile sex offenders is substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[ii]

The Children's Law Center; University of Richmond School of Law; 28 Westhampton Way; University of Richmond, VA 23173.
(804) 287-6468 (phone); (804) 287-6489 (fax); mgoemann@richmond.edu

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior—even when assaultive—do not pose the same threat in terms of duration or severity to public safety as do adults.

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Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and

making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[vi]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, of the states within the Mid-Atlantic region, Virginia currently allow for judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. If a juvenile adjudicated delinquent is 13 years of age or older, the court may require the juvenile to register if, in the courts discretion and on motion of the Commonwealth's Attorney, the court finds that the circumstances of the offense require offender registration.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated

agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment.

Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

The Mid-Atlantic Juvenile Defender Center supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

The Children's Law Center; University of Richmond School of Law; 28 Westhampton Way; University of Richmond, VA 23173.
(804) 287-6468 (phone); (804) 287-6489 (fax); mgoemann@richmond.edu

Melissa Coretz Goemann

Director, Mid-Atlantic Juvenile Defender Center

[i] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). *Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report;* available at http://www.ojjdp.ncjrs.org/.

[ii] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[iii] Freeman-Longo, R.E. (2000). Pg. 9. *Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem.* American Probation and Parole Association. http://www.appa-net.org/revisitingmegan.pdf.

[iv] Garfinkle, E., Comment, 2003. *Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles.* 91 California Law Review 163.

[v] Ibid.

[vi] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

The Children's Law Center; University of Richmond School of Law; 28 Westhampton Way; University of Richmond, VA 23173.
(804) 287-6468 (phone); (804) 287-6489 (fax); mgoemann@richmond.edu

Rosengarten, Clark

From: Rogers, Laura on behalf of GetSMART
Sent: Tuesday, July 31, 2007 11:05 AM
To: Rosengarten, Clark; Kaplan, April
Subject: FW: OAG Docket No. 121

From: Donya Adkerson [redacted]
Sent: Monday, July 30, 2007 12:48 PM
To: GetSMART
Subject: OAG Docket No. 121

July 30, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART OfficeOffice of Justice Programs
U.S. Department of Justice
310 7th Street NW
Washington, D.C. 20531
Email: getsmart@usdoj.gov

Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement the Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), as the Director of Alternatives Counseling, Inc., I would likle to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines.

Alterantives Counseling has provided treatment to both victims and perptrators of sexual offending since 1991. We serve children and youth from intact homes and those in the child welfare system, as well as adults. I have also worked directly for the Illinois Sex Offender Management Board. In our mission of healing those affecting by sexual abuse, we come to know first hand the variability of both youth and adults who have developed sexual behavior robelms. While we are grateful that governmental authorities are focusing needed attention on this public health issue, we are deeply concerned that policies are now being implemented whihc are based on public fears rather than evdence of what owrks arising from research in the field. We beleive that proposed policies as applied to youth may actually harm, rather than help, public safety.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice.

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health
Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other
delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive do not pose the ame threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life. Application of the Guidelines to youth will interfere with effective treatment and rehabilitation
SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and
deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as Applied to Youth will Stop Most Familes From Reporting and Seeking Proper Treatment of Youth who Exhibit Problem Sexual Behavior.

As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation.

SORNA as applied to youth is not in accord with the Act's public safety objective of "protect [ing] the public from sex offenders and offenders against children," in that it will expose these youth to adult offenders who have not sought or benefited from treatment. Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated
information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles.

Youth are not all the same, not even if they have engaged in similar behavior. If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court
system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for
certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the
youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead

supports a policy of judicial discretion on a case-by-case basis subject to certain criteria. For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. We beleive that public safety is best served when each case is responded to based on the individual risks, strenghts, and needs presented.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth
Adjudicated within the Juvenile Court System.

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park. Many adult offenders aleady face hoemlessness due to restrictiond on resdiency. Do we really want to start adding youth to the homeless population?

Alternatively, the Guidelines could allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system. States that create and maintain juvenile non-public registries should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

Alternatives Counseling supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we professionally and personally believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above. Our laws should not harm public safety, even inadvertently.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,

Donya L. Adkerson, MA, LCPC
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fax 618-288-8959
Donya@ACHelps.org

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. Revisiting Megan's Law and Sex Offender Registration: Prevention or Problem. American Probation and Parole Association. <http://www.appa-net.org/revisitingmegan.pdf>http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles. 91 California Law Review 163.

[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Laura L. Rogers, Director
SMART Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

July 20, 2007

Dear Ms. Rogers:

As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), Hillsborough County Sexual Abuse Intervention Network (SAIN) would like to take this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current proposed guidelines. SAIN is a collaboration of volunteer professionals working to reduce the incidence of sexual abuse in Hillsborough County, Florida through identifying, referring and supervising youth with sexual behavior problems.

Application of the guidelines to youth is contrary to the research, including research sponsored by the U.S. Department of Justice. The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even though the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the guidelines to youth will interfere with effective treatment and rehabilitation. SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help

when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to exacerbate the poor social skills many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

SORNA as applied to youth is not in accord with the Act's public safety objective of protect[ing] the public from sex offenders and offenders against children, in that it will expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The guidelines should allow for judicial discretion in cases of youth adjudicated as juveniles. If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act

while helping youth in treatment and innocent family members maintain someprivacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

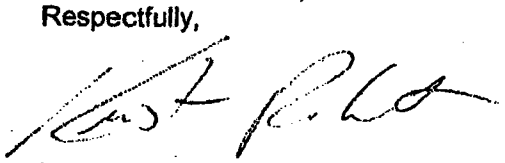
Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

In conclusion, your entity supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,



Kristina Roberts, M.S.

SAIN Coordinator of Hillsborough County

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. Revisiting Megan=92s Law and Sex Offender Registration: Prevention or Problem. American Probation and Parole Association. <http://www.appa-net.org/revisitingmegan.pdf>http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles. 91 California Law Review 163.

[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rogers, Laura

From: [redacted]

Sent: Friday, July 20, 2007 9:33 AM

To: GetSMART

Subject: Re: OAG Docket No. 121--Comments on Proposed to Interpret and Implement

July 31, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531

Dear Ms. Rogers:
As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), the Your Entity takes this opportunity to express our general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines. Give a brief description of your entity; its purpose, function and make-up; the reasons underlying your interest in youth and how SORNA applies to youth.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice
The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth.
According to the National Center of Sexual Behavior of Youth (NCSBY), a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center, juvenile sex offenders engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more

responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive not pose the same threat in terms of duration or severity to public safety as do adults.

All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

It cannot be too strongly emphasized that youth implicated by the Act have not been convicted of a criminal offense, by deliberate action of the states legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent and, by virtue of that adjudication, have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that typically accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a chilling effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will be more inclined to hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

In addition, public registration and community notification requirements can complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from community notification serves to exacerbate the poor social skills many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation

SORNA as applied to youth is not in accord with the Act's public safety objective of protect[ing] the public from sex offenders and offenders against children, in that it will

expose these youth to adult offenders who have not sought or benefited from treatment.

Just as members of the public will be able to access the registry via the Internet and identify offenders in any and every community, adults who are inclined to exploit and abuse children and youth will be able to access the registry via the Internet and identify adjudicated youth in any and every community. Moreover, the youth's exposure will not be limited to the Internet. Pursuant to SORNA, four times a year these youth will have to report to a centralized location to provide certain updated information--bringing them into the physical presence of others and making abusive and exploitative actions against them much easier for adults still engaging in sexually inappropriate and abusive behavior.

The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

To date, all 50 states and the District of Columbia allow for the prosecution of serious youthful offenders in adult criminal court. Five states (HI, KS, ME, MO, NH) grant authority to the judge to make the decision to transfer a youth to adult court after a finding of probable cause and a determination that the juvenile court system cannot properly address his or her treatment needs. Fourteen states (AZ, AR, CA, CO, FL, GA, LA, MI, MT, NE, OK, VT, VA, WY) give prosecutors, instead of judges, the discretion to decide whether to charge certain juveniles in adult courts. Twenty-nine states (AL, AK, AZ, CA, DE, FL, GA, ID, IL, IN, IA, LA, MD, MA, MN, MS, MT, NV, NM, NY, OK, OR, PA, SC, SD, UT, VT, WA, WI) automatically transfer juvenile cases for certain types of crimes. Only two states (NY, NC) have lowered the age at which children are considered adults in the criminal system, transferring all crimes by 16- or 17-year-olds to adult courts.[6]

Thus, if a youth is being adjudicated within the juvenile court system, the state legislature, the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and

instead supports a policy of judicial discretion on a case-by-case basis subject to certain criteria.

For example, Arizona, Iowa, Montana, Ohio, Oklahoma, Oregon, Texas and Wisconsin all currently allow for some judicial discretion when determining whether a youth adjudicated within the juvenile court system is required to register as a sex offender. If your state allows for judicial discretion, talk about it: what criteria does the judge use; can the judge reverse him or herself at a later point; are their any cases in which the judge does not have discretion; etc.

States that allow for the exercise of judicial discretion in cases of youth who have been adjudicated within the juvenile court system should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

The Guidelines Should Waive Public Registration and Community Notification Requirements for Youth Adjudicated within the Juvenile Court System

If the Attorney General persists that youth adjudicated within the juvenile court system register as sex offenders under SORNA, the Guidelines should allow for the creation and/or maintenance of a separate juvenile registry that is accessible by the relevant authorities but not by the general public, and should allow for the states, via the courts or some designated agency, to determine whether community notification is required. Such allowances will serve the public safety purposes of the Adam Walsh Act while helping youth in treatment and innocent family members maintain some privacy.

SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number the youth has to provide will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

Similarly, the mandates and restrictions associated with SORNA impact not only the youth, but the entire family, particularly in terms of where registrants can live, e.g., prohibitions against living within so many feet of a school or a park.

In its efforts to support families as the fabric of strong communities, the federal government

must be careful not to promulgate policies and promote practices that unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on= children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

Alternatively, the Guidelines should allow for the creation and/or maintenance of juvenile registries that are accessible by the relevant authorities but not accessible by the public. Idaho, Ohio, Oklahoma and South Carolina, for example, currently maintain non-public registries for youth adjudicated within the juvenile court system.

If your state has a Juvenile Registry that is less punitive and supports both rehabilitative and public safety concerns, talk about it: who has to register; who decides who has to register; what information do registrants have to provide; how often to they have to update the registry; how is this information used; who has access to the information and for what purpose; how long is the registration period; etc.

States that create and maintain juvenile registries such as the one described above should be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

Your entity supports efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, we believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short- and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways articulated above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and we trust that our comments will be given serious and thoughtful consideration.

Respectfully,
Deborah Laskowski, LCSW

Tampa, Florida

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, (2001). Juveniles Who Have Sexually Offended; A Review of the Professional Literature Report; available at <http://www.ojjdp.ncjrs.org/>http://www.ojjdp.ncjrs.org/.

[2] Zimring, F.E. (2004). An American Travesty. University of Chicago Press.

[3] Freeman-Longo, R.E. (2000). Pg. 9. Revisiting Megan=92s Law and Sex Offender Registration: Prevention or Problem. American Probation and Parole Association. <http://www.appa-net.org/revisitingmegan.pdf>http://www.appa-net.org/revisitingmegan.pdf.

[4] Garfinkle, E., Comment, 2003. Coming of Age in America: The Misapplication of Sex-Offender Registration and Community Notification Laws to Juveniles. 91 California Law Review 163.

[5] Ibid.

[6] This past June, Connecticut raised the age of original juvenile court jurisdiction to age 17.

Rogers, Laura

From: [redacted]
Sent: Thursday, July 19, 2007 10:36 PM
To: GetSMART
Subject: SORNA

Bay Area Sex Abuse Treatment Center

July 19, 2007

VIA ELECTRONIC AND FIRST-CLASS MAIL

Laura L. Rogers, Director
SMART Office, Office of Justice Programs
U.S. Department of Justice
810 7th Street NW
Washington, D.C. 20531
Email: getsmart@usdoj.gov

Re: OAG Docket No. 121--Comments on Proposed
to Interpret and Implement the
Sex Offender Registration and Notification Act (SORNA)

Dear Ms. Rogers:
As the U.S. Department of Justice considers how best to interpret and implement the Sex Offender Registration and Notification Act of 2006 (SORNA), I want to take this opportunity to express my general opposition to the application of SORNA to youth adjudicated within the juvenile court system, and our particular concerns with the current Proposed Guidelines. I run a program that is designed to evaluate and treat both juvenile and adult sex offenders. Many of the juveniles that I work with are young and most have been sexually abused themselves.

Application of the Guidelines to Youth is Contrary to the Research, Including Research Sponsored by the U.S. Department of Justice

The research, including research sponsored by the U.S. Department of Justice, does not support the application of SORNA to youth. According to the National Center of Sexual Behavior of Youth (NCSBY), [a training and technical assistance center developed by the Office of Juvenile Justice and Delinquency Prevention and the Center on Child Abuse and Neglect at the University of Oklahoma Health Sciences Center], juvenile sex offenders

engage in fewer abusive behaviors over shorter periods of time and have less aggressive sexual behavior.[1] In addition, the recidivism rate among juvenile sex offenders is substantially lower than that of adults (5-14% vs. 40%), and substantially lower than rates for other delinquent behavior (5-14% vs. 8-58%). In fact, more than 9 out of 10 times the arrest of a youth for a sex offense is a one-time event, even thought the youth may be apprehended for non-sex offenses typical of other juvenile delinquents.[2]

The Center also found that youth are more responsive to treatment than adults and that they are less likely than adults to re-offend given appropriate treatment. In other words, youth whose conduct involves sexually inappropriate behavior even when assaultive, do not pose the same threat in terms of duration or severity to public safety as do adults. All of the above competently argues against the inclusion of youth in public sex offender registries for 25 years to life.

Application of the Guidelines to Youth Will Interfere with Effective Treatment and Rehabilitation

SORNA as applied to youth is contrary to the core purposes, functions and objectives of our nation's juvenile justice systems in that it strips away the confidentiality and the overall rehabilitative emphasis which form the basis of effective intervention and treatment for youthful offenders.

Youth implicated by the Act have not been convicted of a criminal offense by deliberate action of the states' legislatures and prosecuting authorities. Rather, they have been adjudicated delinquent. By virtue of that adjudication, they have been found to be amenable to treatment and deserving of the opportunity to correct their behavior apart from the stigma and perpetual collateral consequences that accompany criminal convictions. Subjecting juveniles to the mandates of SORNA interferes with and threatens child-focused treatment modalities and may significantly decrease the effectiveness of the treatment.

SORNA as applied to youth will have a devastating effect on the identification and proper treatment of youth who exhibit inappropriate sexual behavior. As opposed to helping to hold their child accountable and seek appropriate children, parents will most likely hide their child's problem and not seek help when they learn that their child may be required to register for life as a sex offender.

Public registration and community notification requirements will complicate the rehabilitation and treatment of these youth. Youth required to register have been known to be harassed at school, forcing them to drop out.[3] The stigma that arises from

community notification serves to "exacerbate" the "poor social skills" many juvenile offenders possess,[4] destroying the social networks necessary for rehabilitation.[5]

Application of the Guidelines to Youth Will Put Youth at Risk of Exploitation

SORNA as applied to youth is not in accord with the Act's public safety objective of "protect[ing] the public from sex offenders and offenders against children," in that it will
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The Guidelines Should Allow for Judicial Discretion in Cases of Youth Adjudicated as Juveniles

If the Attorney General persists that SORNA be applied to youth adjudicated within the juvenile court system, the Department should allow judges to exercise some discretion when determining whether and how a youth must register as a sex offender.

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If a youth is being adjudicated within the juvenile court system, the state legislature,

the prosecutor and/or the judge have made a determination (1) that the youth's offense does not warrant criminal prosecution, (2) that the youth is entitled to the protections of the juvenile system and, above all, (3) that the youth and the public are best served within the juvenile system. The fact that the court has retained jurisdiction argues against indiscriminate registration requirements and instead supports a policy of judicial discretion on a case-by-case basis, subject to certain criteria.

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SORNA as applied to youth will disrupt families and communities across the nation because SORNA does not just stigmatize the youth; it stigmatizes the entire family, including the parents and other children in the home. In the overwhelmingly majority of cases, the address and telephone number of the youth will be the family's home address and telephone number. The school information the youth has to provide will be the same school currently or soon-to-be attended by a sibling. The vehicle information the youth has to provide to be registered in one or both of the parents' names.

In its efforts to support families as the fabric of strong communities, the federal government must be careful not to promulgate policies and promote practices that

unnecessarily introduce or exacerbate tensions in the home, the school and between members of the same community, particularly where those tensions center on children and families who need and can benefit from appropriate treatment. Similarly, the mandates and restrictions associated with the Guidelines will impact not only the youth, but the entire family, particularly in terms of where the family is permitted to live, e.g., prohibitions against living within so many feet of a school or a park.

States that create and maintain juvenile registries such as the one described above should
be deemed to have substantially implemented the SORNA standards with respect to the Registration Requirements and Community Notification Standards.

Conclusion

I support efforts to hold offenders accountable, protect vulnerable populations and improve the overall public safety for communities across the nation. For the aforementioned reasons, however, I believe that the Act and the Proposed Guidelines negatively and unnecessarily impact the short-and long-term rehabilitation of youth adjudicated within the juvenile court system. We therefore urge the Attorney General to wholly or, alternatively, to limit their application in the ways outlined above.

Thank you for the opportunity to comment on the Proposed Guidelines to interpret and implement the Sex Offender Registration and Notification Act, and I trust that my comments will be given serious and thoughtful consideration. If I can answer any further questions, please contact me at 410-879-2470.

With regards,

Carol A. Deel, MS, LCPC, LCMFT
Director

[1] National Center on Sexual Behavior of Youth, Center for Sex Offender Management (CSOM) and U.S. Department of Justice, Office of Juvenile Justice and Delinquency